

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-220717.2 DATE: November 12, 1985
MATTER OF: Neighborhood Ranger, Inc.--Request for
Reconsideration

DIGEST:

Dismissal of protest is affirmed where request for reconsideration does not establish that the decision was based on error of law or fact.

Neighborhood Ranger, Inc. (NRI), requests that we reconsider our dismissal of its protest against the award of a contract under invitation for bids (IFB) No. 243-IFB-85-0138, issued by the Department of Health and Human Services (HHS) for security guard services at the Public Health Service Alaska Native Hospital in Bethel, Alaska. See Neighborhood Ranger, Inc., B-220717, Oct. 23, 1985, 85-2 C.P.D. ¶ ____. We affirm our decision.

NRI had complained that it did not receive notice of the IFB until after bid opening and shortly before the contract was awarded. We dismissed the protest because timely notice of the procurement had appeared in the Commerce Business Daily (CBD), which constitutes constructive notice of the procurement action; we noted that NRI's allegation of unreliable delivery of the CBD in its area did not suggest any failure by the procuring agency to comply with law or regulation and thus did not affect the procurement's validity.

NRI also contended that it should have been solicited anyway because it had applied to the General Services Administration (GSA) region that includes Alaska for inclusion on that region's bidders' list. We pointed out, however, that rather than expect GSA to send it HHS solicitations, the protester should have applied for inclusion on HHS' own bidders' list.

In requesting reconsideration, NRI again complains about GSA's failure to furnish it a copy of the IFB and also asserts that before the solicitation was issued, NRI in fact had contacted a hospital employee to request a copy of the IFB when it became available.

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NRI's request provides no basis to reconsider our decision. There simply is no reason to object to an award on the basis that one agency (GSA) did not furnish a firm on its own bidders' list a copy of another agency's (HHS) solicitation. More importantly, the CBD publication placed NRI on constructive notice of the procurement and the invitation's contents, as stated above. As a legal matter, it was NRI's failure to act on this notice that caused the firm to miss the competition, not HHS' failure to solicit the protester despite the alleged preissuance request to a hospital employee, or GSA's failure to contact the firm.

NRI's reconsideration request thus establishes no error of fact or law in our initial decision that warrants reversal. The decision is affirmed. 4 C.F.R. § 21.12(a) (1985).

for *Seymour E. Gross*
Harry R. Van Cleve
General Counsel